

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

File No. 22-CR-86-2 (JWB/ECW)

United States of America,

Plaintiff,

v.

Gabriel Lemoine,

Defendant.

GABRIEL LEMOINE’S
MOTION *IN LIMINE* TO
PRECLUDE TESTIMONY ON
DEFENDANT’S STATE OF
MIND

COMES NOW Defendant Gabriel Lemoine, through defense counsel, the undersigned, and moves the Court for a ruling *in limine* precluding the Government from eliciting testimony from any witness about what they believe Defendant’s state of mind was at the time of the alleged offenses.

In cases such as this where direct evidence of a defendant’s state of mind may be absent, a jury is free to consider all the evidence—direct and indirect—of a defendant’s statements and actions. *United States v. Wilson*, 103 F.3d 1402, 1406-1407 (8th Cir. 1997). “The jury is also free to draw reasonable inferences from the evidence presented about what the defendant’s state of mind was when he did or said the thing presented in the evidence.” *Id.*

However, no witness may speculate or surmise about what Defendant’s state of mind was. Fed.R.Ev. 602 and 704(b). Therefore, the Court should issue a ruling *in limine* prohibiting any witness besides Defendant from testifying about what Mr.

Lemoine's state of mind was, or must have been. This should include a prohibition on any witness testifying as to their opinion about the inferences to be drawn from the evidence with regards to Mr. Lemoine's state of mind. What inferences to draw from the evidence are properly the province of the jury alone. Fed.R.Ev. 704(b).

Respectfully Submitted,

ANDREW IRLBECK LAWYER CHTD.

Dated: May 12, 2023

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